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Supreme Court, U.S.
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Nos. 05-908 and 05-915

IN THE
SUPREME COURT OF THE UNITED STATES

PARENTS INVOLVED IN COMMUNITY SCHOOLS,
Petitioner,

v.

SEATTLE SCHOOL DISTRICT NO. 1, *ET AL.*,
Respondents.

CRYSTAL D. MEREDITH, CUSTODIAL PARENT AND NEXT FRIEND OF JOSHUA RYAN MCDONALD,
Petitioner,

v.

JEFFERSON COUNTY BOARD OF EDUCATION, *ET AL.*,
Respondents.

On Writs of Certiorari to the United States Courts of Appeals for the Ninth and Sixth Circuits

BRIEF OF THE URBAN LEAGUE OF METROPOLITAN SEATTLE AND THE NATIONAL URBAN LEAGUE AS *AMICUS CURIAE* IN SUPPORT OF RESPONDENTS

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INTEREST OF THE URBAN LEAGUE OF METROPOLITAN SEATTLE AND THE NATIONAL URBAN LEAGUE

The Urban League of Metropolitan Seattle ("the Urban League"), an affiliate of the National Urban League, appeared as Amicus Curiae in favor of the Seattle school assignment plan before the Washington State Supreme Court. Counsel for the Urban League participated in oral argument before the Washington State Supreme Court to emphasize the League's historic and abiding commitment to racial diversity in Seattle public school classrooms, and to support the Seattle plan.. Subsequently, Petitioner has cited a plan proposed by the Urban League but not adopted by the Seattle School Board as a superior alternative to the Seattle plan. The Seattle plan and the Urban League plan share diversity in Seattle classrooms as a critical goal, and use diversity as a tiebreaker to achieve it.

The National Urban League was established in 1910 to advocate for housing, jobs, and educational opportunities for African-Americans and other persons of color. An affiliate of the National Urban League, the Urban League of Metropolitan Seattle, was established in 1929. The National Urban League and its affiliates have actively promoted equal education opportunities since the 1960s. Since the late 1960s, the Urban League has advocated various school assignment changes with the goal of eliminating segregation in the public school system.

The Urban League has worked actively with the Seattle School District to promote understanding and racial diversity in the Seattle public schools. In partnership with the District, the Urban League has provided academic enrichment programs to

disadvantaged students and has provided school counselors at alternative schools within the Seattle School District. The Urban League has been instrumental in developing the Youth Congress Program – a 10 week youth leadership development program – aimed at curbing teen violence and promoting cross-racial understanding among youths. The Urban League also provided in-service training for teachers and counselors, and developed a curriculum on minority history and race relations for the Seattle schools. The Urban League has been involved in promoting access to equal education in the African American community at every level, from leading community outreach programs regarding new high school graduation requirements to providing a daily after-school program with a safe and nurturing environment to Kindergarten through Twelfth grade youth.

The Urban League's support for integrated Seattle high school classrooms spans four (4) decades. Not surprisingly, the Urban League plan had integration as a goal and utilized diversity as a tiebreaker.

ARGUMENT

A. The Effects of Racial Segregation Demonstrate the Need for Diversity.

The benefits of an integrated education for majority and minority students are undisputed. A recent Harvard study demonstrates the advantages of a racially diverse student body at the high school level:

> A recent study of elite law schools shows, for example, that almost all of the black and Latino students who made it into those

schools came from integrated educational backgrounds. Minority students with the same test scores tend to be much more successful in college if they attended interracial high schools. In addition, recent surveys show that both white and minority students in integrated school districts tend to report by large majorities that they have learned to study and work together and that they are highly confident about their ability to work in such settings as adults. Students report that they have learned a lot about the other group's background and feel confident about the ability to discuss even controversial racial issues across racial lines. In other words, students report great confidence about skills many adults are far from confident about. Longitudinal research at the college level shows long term gains in understanding complexity from integrated educational experiences. Studies exploring the life experiences of black students attending suburban white high schools show that such students experience far higher graduation and college-going rates than those left in central city schools, frequently attain an

> ability to be fluently bicultural, and, as adults, are often able to work with and offer guidance on issues that require these skills.

Gary Orfield, *Schools More Separate: Consequences of a Decade of Resegregation*, The Civil Rights Project, Harvard University (July 2001), p. 9.[1] Most black professionals attended integrated high schools and colleges. Peter Irons, *Jim Crow's Children: The Broken Promise of the Brown Decision*, Viking Press, New York, 2002, p. 341.

The impact of racial segregation in the public school system is as harmful today as it was at the time of the United States Supreme Court decision in *Brown v. Board of Education.*

> When the Supreme Court said that separate schools were "inherently unequal" it was discussing the impact of discrimination, not the talent of minority students. Although there is a great deal of debate about the scale of the benefits produced by desegregation, there is no doubt that segregated schools are unequal in easily measurable ways. To a considerable degree this is because the segregated minority schools are overwhelmingly likely to have to contend with the educational impacts of

[1] This report may be found on the internet at: http://www.law.harvard.edu/civilrights/publications/resegregation01/schoolsseparate.pdf

> concentrated poverty (defined as having 50% or more of the student population eligible for free or reduced lunch), while segregated white schools are almost always middle class. This study shows that highly segregated black and/or Latino schools are many times more likely than segregated white schools to experience concentration of poverty. This is the legacy of unequal education, income, and the continuing patterns of housing discrimination.

Schools More Separate, p. 10. See, also, *Choosing Segregation: Racial Imbalance in American Public Schools, 1990-2000,* Report by the Lewis Mumford Center, Revised March 29, 2002[2] ("racial segregation works to the benefit of white students, placing them in very different schools from minority students, and particularly in schools with less class disadvantage. Mainly black and Hispanic children pay the price of racial segregation."); Erica Frankenberg and Chungmei Lee, *Race in American Public Schools: Rapidly Resegregating School Districts,* The Civil Rights Project, Harvard University, August 2002, p. 22.[3] ("The

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[2] This report may be found on the internet at http://mumford1.dyndns.org/cen2000/SchoolPop/SPReport/page1.html

[3] This report may be found on the internet at: http://www.law.harvard.edu/civilrights/publications/reseg_districts02/Race_in_American_Public_Schools1.pdf

isolation of blacks and Latinos has serious ramifications: this isolation is highly correlated with poverty, which is often strongly related to striking inequalities in test scores, graduation rates, courses offered and college going rates.")

As the respected constitutional and civil rights scholar, Peter Irons, stated in his recently published book *Jim Crow's Children: The Broken Promise of the Brown Decision*:

> Singling out one factor to explain a multitude of complex social problems may appear simplistic and reductionist. But there is no denying that the system of Jim Crow schooling has given millions of America's black residents inferior education as children, has consigned them to unskilled jobs as adults, and has made it difficult to escape the urban ghettos into which rural migrants were confined by poverty and white hostility.

Jim Crow's Children, supra, p 339.

The Seattle school district has long recognized the problem of school segregation was not confined to the South. Neighborhoods in Seattle and across the country were segregated. Thus, by definition, neighborhood schools were segregated.

As the 2000 Census showed, neighborhood residential patterns with regard to race have remained stagnant.

> There has been little change in community integration despite

> growing ethnic diversity in the nation since 1990. The average white person continues to live in a neighborhood that looks very different from those neighborhoods where the average black, Hispanic, and Asian live. This conclusion holds even more strongly among children. . . .
>
> Children of all groups are being raised in environments where their own group's size is inflated, and where they are under-exposed to children of other racial and ethnic backgrounds. And if their neighborhoods are segregated in this way, so will be their schools, their clubs, their sports teams, and their friendship networks.

Separating the Children, Lewis Mumford Center Report, December 2001.[4]

Despite the fact that residential patterns have remained relatively unchanged, school districts underwent a renaissance beginning in the late 1960s that altered the racial demographic of the nation's schools, and diminished the affects of residential isolation on the public school system. *Race in American Public School,* supra, p. 2. From the late 1960s through the early 1980s, school districts in all parts of the country implemented plans to promote racial diversity and integration in public schools. Id.

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[4] This report may be found on the Internet at: http://mumford1.dyndns.org/cen2000/Under18Pop/U18Preport/MumfordReport.pdf.

> The peak of the effort to desegregate the schools came in the late 1960s and early 1970s. The only period in which there was active positive support by both the courts and the executive branch of the government was the four years following the enactment of the 1964 Civil Rights Act. During this period, federal education officials, the Department of Justice, and the high courts all maintained strong and reasonably consistent pressure for achieving actual desegregation. During this period desegregation policy was transformed from a very gradual anti-discrimination policy to one of rapid and full integration.

Schools More Separate, supra. The move toward desegregation of the nation's public schools was not an isolated policy change but was part of the broader recognition of the need for economic and social racial parity.

> The struggle was never just for desegregated schools, nor was it motivated by a desire on the part of black students to simply sit next to white students. It was an integral part of a much broader movement for racial and economic justice supported by a unique alliance of major civil rights organizations, churches,

> students, and leaders of both national political parties.

Id., p. 3.

Neither the United States Constitution nor the Washington Constitution creates a constitutional right to neighborhood schools. This is especially true if neighborhood schools, by definition, mean segregated schools. Segregated schools are inherently unequal. Residential segregation existed in Washington at the time of the enactment of the state constitution, and it still exists today. The Framers of the Washington Constitution took what was then an enlightened stance of placing an affirmative duty on the State to educate all of its children equally, thereby refusing to allow the color of a child's skin to dictate the quality of his education. PICS wants precisely the opposite: PICS wants a school system that allows skin color to dictate the quality of education. Segregated schools will provide demonstrably inferior educational opportunities to black students, and thus will result in the state failing to perform its "paramount duty" under the Washington State Constitution – the ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, cast or sex. Washington State Constitution, art. 9, § 1.

As ample social science evidence shows, the whiter the school, the better the school – not because of intellect or creativity or any of the other attributes that make a good student, but because white communities are wealthier and have more resources. By contrast, schools that are comprised of mostly minority students provide inadequate preparation for college and for life. As noted in a recent Harvard study:

> Patterns of segregation by race are strongly linked to segregation by poverty, and concentrations are strongly linked to unequal opportunities and outcomes. Since public schools are the institutions intended to create a common preparation for citizens in an increasingly multiracial society, this inequality can have serious consequences.

Race in American Public Schools: p. 3 (footnotes omitted). The recent book, Jim Crow's Children, reached a similar conclusion:

> . . . The failure of school integration, largely a consequence of the broken promise of the *Brown* decision, becomes an even more bitter pill to swallow in light of the clear evidence that integration works. More precisely, attending school with substantial numbers of white students improves the academic performance of black children. This reflects, of course, the advantages that majority-white schools have in terms of better-trained, more experienced, and more highly paid teachers, with access to better laboratory and library resources, a wider range of courses, particularly the Advanced Placement courses that challenge students and prepare

> them for college-level work, and a greater number and variety of extracurricular activities.

Jim Crow's Children, supra, p. 340-41.

It would be a fallacy to suggest that by not considering race at all – i.e., by ignoring *de facto* neighborhood segregation – the Seattle School District would somehow be acting in a "race neutral" fashion when a return to a school system that does not take race into account would mean that the schools would be distinguished solely by race. PICS pretends that segregation does not exist and at the same time seeks a ruling from this Court that would almost ensure a return to segregation and racial inequality in Seattle's public schools.

B. Both the Urban League Plan and the Seattle Plan Have Integrated Schools as a Goal, and Use Diversity as a Tiebreaker.

At page 18 of Petitioner's brief PICS asserts that the Urban League's proposal was one where "race plays a lesser role." Petitioner minimizes the extent to which the Urban League plan recognized the critical role played by racial diversity in our educational system. Urban League President James Kelly described the goal of the plan as achieving "choice, quality, equity and diversity." ER 376. Mr. Kelly also indicated that the Urban League plan was based on a model from Cambridge, Massachusetts because it was the most successful in achieving "diversity and academic performance." ER 377.

The Urban League plan described nine elements that should be present for the achievement of high-quality programs in Seattle high schools. Included

among those elements were teacher sensitivity to multiethnic people, and assuring a dynamic, multiethnic student and faculty environment. ER 380. The Urban League plan also set nine goals for its student assignment plan, the second of which was the integration of students within all high schools. ER 381. Finally, the Urban League plan used diversity as the third tiebreaker. ER 382. Petitioner's characterization of the Urban League plan provides no support for its claim that the Seattle plan is unconstitutional.

The Seattle School Board decided that the Urban League plan would require extensive gerrymandering of attendance zones in order to achieve schools with comparable racial compositions. SER 438-39; SER 426. The fact that the school board disagreed with elements of the Urban League plan, and ultimately adopted another plan does not diminish the Urban League's support for the Seattle plan.

CONCLUSION

The Court should affirm the judgment of the Court of Appeals.

DATED: October 10, 2006.

Respectfully submitted,

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